UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

State of Minnesota,
by Michael Campion, its
Commissioner of Public Safety,
 	
      Plaintiff,
   and
Robert J. Bergstrom, Craig A.
Zenobian, Shane M. Steffensen,
and Christopher D. Jacobsen,
      Plaintiff- Intervenors,
   vs.
CMI of Kentucky, Inc.,
a Kentucky corporation,
      Defendant.
	Civil Case No. 08-603 (DWF/AJB)
	
	AFFIDAVIT OF E. JOSEPH NEWTON IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND AN ORDER FOR SPECIFIC PERFORMANCE OR PERMANENT INJUNCTION, OR IN THE ALTERNATIVE FOR A PRELIMINARY INJUNCTION

COUNTY OF RAMSEY   )
)ss.
STATE OF MINNESOTA   )

E. Joseph Newton, being first duly sworn, deposes and states that:

1.   I am Legal Counsel for the Commissioner of Public Safety and the Minnesota Department of Public Safety ("DPS") and submit this affidavit in support of Plaintiff's Motion for Partial Summary Judgment and an Order for Specific Performance or Permanent Injunction, or in the alternative for a Preliminary Injunction.

2.   DPS's legal interpretation of the contract between the State and CMI is that the term "information" in Special Condition 12 includes the Source Code.

3.   DPS's legal interpretation of the contract between the State and CMI is that Special Condition 12 applies to orders for production of the Source Code in criminal DWI cases as well as civil implied consent cases.

4.   DPS's legal interpretation of the contract between the State and CMI is that Special Condition 12 imposes a continuing obligation on CMI to produce the Source Code for as long as the State continues to use evidence obtained from Intoxilyzer 5000EN instruments purchased under the contract between the State and CMI, even if a court orders production of the Source Code after the "contract period."

Further your affiant sayeth not.

<div style="text-align: right">

s/ E. Joseph Newton
E. JOSEPH NEWTON

</div>

Subscribed and sworn to before me
this <u>17th</u> day of <u>April</u>, 2009.

s/ Tamara A. Bohmert
Notary Public